

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION**

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**TONNIE MALONE WARD,**

**Plaintiff,**

**v.**

**DOCKET NO: 2:21-cv-2417-JTF-cgc**

**CITY OF MEMPHIS, Solid  
Waste Division,**

**Defendant.**

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**MOTION TO DISMISS**

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Defendant City of Memphis (the “City”), by and through undersigned counsel, submits this its *Motion to Dismiss*, pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6). For the reasons stated in its contemporaneously-filed *Memorandum of Law in Support of its Motion to Dismiss*, Plaintiff has failed to adequately serve the City,<sup>1</sup> and alternatively, the Complaint fails to state a claim against the City upon which relief may be granted because Plaintiff failed to demonstrate that she exhausted her administrative remedies prior to filing this lawsuit. Consequently, the City respectfully requests the Court dismiss Plaintiff’s Complaint.

Respectfully submitted,

s/Tannera George Gibson

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<sup>1</sup> Despite inadequate service of process, Counsel for the City makes a limited appearance to present the defenses available to it upon its recent learning of this suit from means other than effective service. In filing this Motion, the City expressly preserves all other defenses available to it.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent this 17<sup>th</sup> day of July, 2021 via the Court's electronic filing system to Plaintiff Tonnie Malone Ward, who is a registered CM/ECF user.

s/Tannera George Gibson